



***Substitute House Bill No. 5429***

***Public Act No. 18-25***

***AN ACT CONCERNING INCREASED PENALTIES FOR CERTAIN CIGARETTE AND TOBACCO TAX VIOLATIONS, A CONTINUING EDUCATION OPTION FOR CERTAIN EMBALMERS OR FUNERAL DIRECTORS AND THE IMPOSITION OF THE TOBACCO PRODUCTS TAX ON CIGARS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 12-285c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) No person engaged in the business of selling cigarettes shall ship or transport or cause to be shipped or transported any cigarettes to any person in this state except to: (1) A cigarette distributor or dealer; (2) an export warehouse proprietor pursuant to Chapter 52 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, [amended,] or an operator of a customs bonded warehouse pursuant to 19 USC 1311 or 1555; or (3) a person who is an officer, employee or agent of the United States Government, this state or a department, agency, instrumentality or political subdivision of the United States or of this state, when such person is acting in accordance with such person's official duties. Notwithstanding the provisions of section 12-15, the Commissioner of Revenue Services shall publish on the Internet web site of the Department of Revenue Services a list of every cigarette

***Substitute House Bill No. 5429***

distributor or dealer. As used in this subsection, "cigarette distributor or dealer" means a person licensed as a cigarette distributor under section 12-288 or licensed as a dealer under section 12-287 or a person whose name appears on a list of licensed distributors and dealers published by the Commissioner of Revenue Services.

(b) No common or contract carrier shall knowingly transport cigarettes to a residential dwelling or to any person in this state who the common or contract carrier reasonably believes is not a person described in subdivisions (1) to (3), inclusive, of subsection (a) of this section. No person other than a common or contract carrier shall knowingly transport cigarettes to any person in this state who is not a person described in subdivisions (1) to (3), inclusive, of subsection (a) of this section.

(c) When a person engaged in the business of selling cigarettes ships or transports or causes to be shipped or transported any cigarettes to any described person in this state, other than in the cigarette manufacturer's original container or wrapping, the container or wrapping shall be plainly and visibly marked with the word "cigarettes". Any person engaged in the business of selling cigarettes who ships or causes to be shipped any cigarettes to any described person in this state (1) shall require, as a condition of delivery, [that] the customer who is receiving the cigarettes [shall] to sign an acknowledgment of receipt and provide proper proof of age, and (2) may not sell such cigarettes to such customer unless such proof of age is provided. For purposes of this subsection, "described person" means a person described in subdivisions (1) to (3), inclusive, of subsection (a) of this section.

(d) Whenever any cigarettes have been or are being shipped or transported in violation of this section, such cigarettes are declared to be contraband goods and the confiscation, search and forfeiture provisions of section 12-305 shall apply.

**Substitute House Bill No. 5429**

(e) Any person who violates the provisions of this section shall be guilty of a class A misdemeanor and, for a second or subsequent violation, shall be guilty of a class [D] C felony.

(f) The Commissioner of Revenue Services may impose a civil penalty of not more than [five] ten thousand dollars for each violation of this section. For purposes of this subsection, each shipment or transport of cigarettes shall constitute a separate violation. The Attorney General, upon request of the commissioner, may bring an action in the superior court for the judicial district of Hartford to collect such civil penalty and for any injunctive or equitable relief. In any action brought by the Attorney General to enforce the provisions of section 12-285b or this section, the state shall be entitled to recover, when it is the prevailing party, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

Sec. 2. Subsection (e) of section 12-286 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(e) (1) Any person who knowingly sells, offers for sale or possesses with intent to sell any cigarettes, without a license as provided in this chapter, shall be fined not more than [five hundred] one thousand dollars or imprisoned for not more than [three] six months, or both, for each offense. Each day of such unauthorized operation may be deemed a separate offense. The provisions of this subdivision shall not apply to any person whose dealer's license has expired, provided the period of operation without such license is not more than ninety days after the date of expiration.

(2) Any person who knowingly sells at retail, offers for sale at retail or possesses with intent to sell at retail any taxed tobacco products, as defined in section 12-330a, without a dealer's license as provided in this chapter, shall be fined not more than [five hundred] one thousand

***Substitute House Bill No. 5429***

dollars or imprisoned for not more than [three] six months, or both, for each offense. Each day of such unauthorized operation may be deemed a separate offense. The provisions of this subdivision shall not apply to any person whose dealer's license has expired, provided the period of operation without such license is not more than ninety days from the date of expiration.

(3) Any person whose dealer's license has expired and who knowingly sells at retail, offers for sale at retail or possesses with intent to sell at retail any cigarettes or taxed tobacco products, as defined in section 12-330a, where such person's period of operation without such license is not more than ninety days from the date of expiration of such license, [shall have committed an infraction and] shall be fined [ninety] three hundred fifty dollars.

Sec. 3. Section 12-304 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) (1) No [distributor shall sell, and no other] person shall sell, offer for sale, display for sale, transport for sale or possess with intent to sell, any cigarettes (A) which do not bear stamps evidencing the payment of the tax imposed by this chapter, or (B) the stamping of which is prohibited by subsection (b) of section 12-302 or subsection (b) of section 12-303, provided a licensed dealer may keep on hand, at the location for which such dealer's license is issued, unstamped cigarettes, other than cigarettes, the stamping of which is prohibited by subsection (b) of section 12-303, for a period not exceeding twenty-four hours. Any unstamped cigarettes in the possession of a licensed dealer shall be presumed to have been held by such dealer for more than twenty-four hours unless proof is shown to the contrary.

(2) Except as provided in subdivision (3) of this subsection, any person who knowingly violates any provision of subdivision (1) of this subsection shall be [fined not more than one thousand dollars or

**Substitute House Bill No. 5429**

imprisoned not more than one year or both] subject to the following penalties: (A) If the violation involves one thousand or fewer unstamped cigarettes, such person shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both; (B) if the violation involves more than one thousand but fewer than twenty thousand unstamped cigarettes, such person shall be fined not more than one dollar per cigarette or imprisoned for not more than one year, or both; and (C) if the violation involves twenty thousand or more unstamped cigarettes, such person shall be fined not more than one dollar fifty cents per cigarette or imprisoned for not more than five years, or both.

(3) Any licensed dealer who knowingly violates any provision of subdivision (1) of this subsection [shall have committed an infraction and] shall be fined [ninety] three hundred fifty dollars, provided (A) the quantity of unstamped cigarettes in the possession of such dealer does not exceed [six hundred] one thousand cigarettes, and (B) it is such dealer's first violation of the provisions of this subsection.

(b) [(1)] Any person, whether or not previously convicted of a violation of any provision of this section, [who possesses, transports for sale, sells or offers for sale twenty thousand or more cigarettes, (A) subject to the tax imposed by this chapter in any unstamped or unlawfully packaged stamped packages, or (B) the stamping of which is prohibited by subsection (b) of section 12-302 or subsection (b) of section 12-303, and (2) any person, whether or not previously convicted of violation of any provision of this section,] who wilfully attempts to evade the taxes imposed by this chapter or the payment thereof on twenty thousand or more cigarettes, shall be guilty of a class [D] C felony.

Sec. 4. Subsection (b) of section 12-306b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

**Substitute House Bill No. 5429**

(b) Any person who wilfully delivers or discloses to the commissioner or [his] the commissioner's authorized agent any list, report, account, statement, or other document, known by [him] such person to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be guilty of a class [D] C felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 5. Subsection (a) of section 12-314 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) (1) The sale of cigarettes other than in an unopened package containing twenty or more cigarettes originating with the manufacturer [which] that bears the health warning required by law is prohibited. Any cigarettes sold other than as specified under this subdivision shall be deemed contraband and shall be subject to confiscation.

(2) If the Commissioner of Revenue Services finds, after a hearing, that any [dealer or distributor] person has violated the provisions of this subsection, said commissioner may assess such person a civil penalty of [fifty] one hundred fifty dollars for a first offense, [two hundred fifty] five hundred dollars for a second offense and [five hundred] one thousand dollars for a third or subsequent offense. Such penalty may be in addition to any other penalty provided by law, including, but not limited to, the suspension or revocation, if such person is a licensed dealer or distributor, of [the] such license [of such dealer or distributor] pursuant to section 12-295. Any person aggrieved by any action of said commissioner pursuant to this subsection may take an appeal of such action as provided in sections 12-311 and 12-312.

**Substitute House Bill No. 5429**

Sec. 6. Section 12-330f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) Any person, other than a licensed distributor or a licensed unclassified importer, who knowingly manufactures, purchases, imports, receives or acquires any tobacco products upon which no tax has been paid in accordance with the provisions of this chapter, shall be fined not more than [five hundred] seven hundred fifty dollars or imprisoned for not more than three months, or both, for each offense. Each day of any such unauthorized operation may be deemed a separate offense.

(b) No distributor or unclassified importer shall sell, offer for sale, display for sale or possess with intent to sell, any tobacco products upon which no tax has been paid in accordance with the provisions of this chapter, provided a licensed distributor or unclassified importer may keep on hand, at the location for which [his] such distributor's or importer's license is issued, tobacco products upon which no such tax has been paid for a period not exceeding forty-one days. Any tobacco products in the possession of a distributor or unclassified importer shall be presumed to have been held by [him] such distributor or importer for more than forty-one days unless proof is shown to the contrary. Any person who knowingly violates any provision of this subsection shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(c) (1) Any person, whether or not previously convicted of violation of any provision of this section, who transports for sale, sells or offers for sale tobacco products upon which a tax of two thousand five hundred dollars or more would be due under the provisions of this chapter, but upon which no tax has been paid, and (2) any person, whether or not previously convicted of violation of any provision of this section, who wilfully attempts to evade the taxes imposed by this chapter, or the payment thereof on tobacco products upon which a tax

**Substitute House Bill No. 5429**

of two thousand five hundred dollars or more would be due but upon which no tax has been paid, shall be guilty of a class [D] C felony.

Sec. 7. Section 12-330j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) Any person required under this chapter to pay any tax or to make a report, keep any records or supply any information, who wilfully fails to pay such tax, make such report, keep such records, or supply such information, at the time required by law or regulations, shall, in addition to any other penalty provided by law, be fined not more than one thousand dollars or imprisoned not more than one year, or both. Notwithstanding the provisions of section 54-193, no person shall be prosecuted for a violation of the provisions of this subsection committed on or after July 1, 1997, except within three years next after such violation has been committed. As used in this section, "person" includes any officer or employee of a corporation or a member or employee of a partnership under a duty to pay such tax, to make such report, keep such records or supply such information.

(b) Any person who wilfully delivers or discloses to the commissioner or [his] the commissioner's authorized agent any list, report, account, statement, or other document, known by [him] such person to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be guilty of a class [D] C felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 8. Subsection (a) of section 53-394 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

**Substitute House Bill No. 5429**

(a) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to intentionally aid, solicit, coerce or intimidate another person to commit any crime which, at the time of its commission, was a felony chargeable by indictment or information under the following provisions of the general statutes then applicable: (1) Sections 53-278a to 53-278f, inclusive, relating to gambling activity; (2) chapter 949a, relating to extortionate credit transactions; (3) chapter 952, part IV, relating to homicide; (4) chapter 952, part V, relating to assault, except assault with a motor vehicle as defined in section 53a-60d; (5) sections 53a-85 to 53a-88, inclusive, relating to prostitution; (6) chapter 952, part VII, relating to kidnapping; (7) chapter 952, part VIII, relating to burglary, arson and related offenses; (8) chapter 952, part IX, relating to larceny, robbery and related offenses; (9) chapter 952, part X, relating to forgery and related offenses; (10) chapter 952, part XI, relating to bribery and related offenses; (11) chapter 952, part XX, relating to obscenity and related offenses; (12) chapter 952, part XIX, relating to coercion; (13) sections 53-202, 53-206, 53a-211 and 53a-212, relating to weapons and firearms; (14) section 53-80a, relating to the manufacture of bombs; (15) sections 36b-2 to 36b-34, inclusive, relating to securities fraud and related offenses; (16) sections 21a-277, 21a-278 and 21a-279, relating to drugs; (17) section 22a-131a, relating to hazardous waste; (18) chapter 952, part XXIII, relating to money laundering; (19) section 53a-192a, relating to trafficking in persons; or (20) [subdivision (1) of] subsection (b) of section 12-304, as amended by this act, or section 12-308, relating to cigarettes, or subsection (c) of section 12-330f, as amended by this act, or subsection (b) of section 12-330j, as amended by this act, relating to tobacco products.

Sec. 9. Section 20-227a of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Notwithstanding the provisions of sections 20-213, 20-217 and

***Substitute House Bill No. 5429***

20-227, the Connecticut Board of Examiners of Embalmers and Funeral Directors and the Department of Public Health shall not take any disciplinary action pursuant to section 20-227 against a licensed embalmer or funeral director who received notification on or before October 1, 2017, that the licensee's score on the national board examination was invalidated as a result of the invalidation of such score if the licensee (1) retakes and successfully completes the prescribed examination not later than October 1, 2018, or (2) completes forty-five hours of continuing education and submits certificates of course completion to the department on or before July 1, 2019. The hours of continuing education under this subsection shall be in addition to the hours required under section 20-219a.

(b) At least six of the hours under subdivision (2) of subsection (a) of this section shall be in the area of ethics. The remaining hours shall be in areas related to the licensee's practice, including, but not limited to, bereavement care, business management and administration, religious customs and traditions related to funerals, cremation services, cemetery services, natural sciences, preneed services, restorative arts and embalming, counseling, funeral service merchandising, sanitation and infection control, organ donation or hospice care. The continuing education under said subdivision shall consist of courses offered or approved by the Academy of Professional Funeral Service Practice, educational offerings by a hospital or other licensed health care institution or courses offered by a regionally accredited institution of higher education.

(c) Any affected licensee who fails to successfully complete the examination on or before October 1, 2018, or fails to complete the hours of continuing education under subdivision (2) of subsection (a) of this section on or before July 1, 2019, shall have his or her license to practice as an embalmer or funeral director annulled, subject to the provisions of section 4-182.

**Substitute House Bill No. 5429**

Sec. 10. Section 12-330c of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) (1) A tax is imposed on all untaxed tobacco products held in this state by any person. Except as otherwise provided in [subdivision] subdivisions (2) and (3) of this subsection, [with respect to the tax on cigars, or in subdivision (3) of this subsection with respect to the rate of tax on snuff tobacco products,] the tax shall be imposed at the rate of fifty per cent of the wholesale sales price of such products.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, in the case of cigars the tax shall not exceed fifty cents per cigar.

(3) The tax shall be imposed on snuff tobacco products, on the net weight as listed by the manufacturer, as follows: Three dollars per ounce of snuff and a proportionate tax at the like rate on all fractional parts of an ounce of snuff.

(b) [Such] (1) Except as provided in subdivision (2) of this subsection, such tax shall be imposed on the distributor or the unclassified importer at the time the tobacco product is manufactured, purchased, imported, received or acquired in this state.

(2) Cigars owned by a distributor that are located on the premises of a person who performs fulfillment services in this state for such distributor and (A) are exported from this state shall not be subject to the tax imposed by this chapter, or (B) are shipped, delivered or otherwise transferred to a Connecticut address shall be subject to the tax imposed by this chapter and such tax shall be imposed on the date of such shipment, delivery or transfer and paid with, and reported by such distributor on, the return prescribed under section 12-330d that corresponds to the month such shipment, delivery or transfer

***Substitute House Bill No. 5429***

occurred. For purposes of this subdivision, "fulfillment services" means services that are performed by a person on the premises of such person on behalf of a distributor and that involve the receipt of orders from such distributor or an agent thereof, which orders are to be filled by the person from an inventory of cigars that are offered for sale by such distributor, and the shipment of such orders to customers of such distributor.

(3) The commissioner may require the person who performs fulfillment services to file a quarterly informational return with the commissioner with respect to cigars located on the premises of such person, containing such information as the commissioner may prescribe.

(c) Such tax shall not be imposed on any tobacco products that (1) are exported from [the] this state, or (2) are not subject to taxation by this state pursuant to any laws of the United States.

(d) Any tax imposed under this chapter shall be reduced by fifty per cent for any product the Secretary of the United States Department of Health and Human Services determines to be a modified risk tobacco product pursuant to 21 USC 387k, as amended from time to time.

Approved May 29, 2018